

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION BY MCI FOR ARBITRATION)
OF CERTAIN TERMS AND CONDITIONS)
OF A PROPOSED AGREEMENT WITH)
BELLSOUTH TELECOMMUNICATIONS,)
INC., CONCERNING INTERCONNECTION)
AND RESALE UNDER THE TELE-)
COMMUNICATIONS ACT OF 1996)

CASE NO. 96-431

O R D E R

This matter arising upon petition of BellSouth Telecommunications, Inc. ("BellSouth"), filed October 28, 1996, pursuant to 807 KAR 5:001, Section 7, for confidential protection of cost information filed in response to requests from the informal conference on October 18, 1996 on the grounds that disclosure of the information is likely to cause BellSouth irreparable harm, and it appearing to this Commission as follows:

This proceeding arises out of the Telecommunications Act of 1996 ("Act") which was enacted by Congress to, inter alia, open the local exchange market to competition. To achieve that objective, the Act requires, among other things, that incumbent local exchange companies provide interconnection to their local telephone networks, unbundle network elements, and provide existing services for resale to competing carriers. The Act permits the incumbent carriers to negotiate rates for the services they provide to the competing carriers. If rates cannot be agreed upon, Section 252(b)(1) of the Act allows competing carriers to petition a state commission to set the rates by arbitration.

The information sought to be protected was filed by BellSouth as part of such an arbitration proceeding which MCI Telecommunications Corporation ("MCI") instituted by petition to this Commission. The information consists of cost information furnished by BellSouth in response to requests made during an informal conference held on October 18, 1996, and includes vendor-specific prices negotiated by BellSouth.

The information sought to be protected is not known outside of BellSouth and is not disseminated within BellSouth except to those employees who have a business need to know the information. BellSouth seeks to protect and preserve the confidentiality of the information through all appropriate means.

KRS 61.872(1) requires information filed with the Commission to be available for public inspection unless specifically exempted by statute. Exemptions from this requirement are provided in KRS 61.878(1). That subsection of the statute exempts several categories of information. One category exempted in paragraph (c)1 of that subsection is commercial information confidentially disclosed to the Commission which if made public would permit an unfair commercial advantage to competitors of the party from whom the information was obtained. To qualify for the exemption, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

Because a major purpose of the Act is to encourage competition in the local exchange market, information which would unfairly benefit potential competitors is entitled to protection. The cost information sought to be protected by this petition falls into this category. Disclosure of the information would unfairly assist competitors in formulating

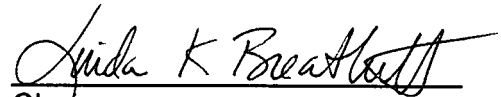
overall business strategies, including plans for entry, pricing, and marketing. Additionally, disclosure of vendor-specific prices negotiated by BellSouth would impair its ability to contract for goods or services on favorable terms in the future. Therefore, disclosure of the information is likely to cause BellSouth competitive injury and the information is entitled to confidential protection.

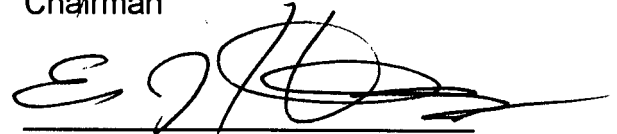
This Commission being otherwise sufficiently advised,

IT IS ORDERED that the cost information filed in response to requests made during the informal conference of October 18, 1996, which BellSouth has petitioned to be withheld from public disclosure, shall be held and retained by this Commission as confidential and shall not be open for public inspection.

Done at Frankfort, Kentucky, this 3rd day of December, 1996.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director